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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9201/2021

CONST THORAT VIJAY VITTHAL & ORS. Petitioners

Through Mr.Nikhil Palli, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through Mr.Harish Vaidyanathan Shankar,
CGSC for UOI.

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Date of Decision: 8th November, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J (Oral):

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed seeking directions to the respondents to extend the benefit of Old Pension Scheme to the petitioners who were selected as Constable/GD in Border Security Force pursuant to recruitment held in November, 2003 by Frontier Headquarters BSF, Rajasthan, Gujarat, U.P, Punjab, Maharashtra in August, 2003 on the ground that the petitioners are identically placed as the petitioners in the case of *Tanaka Ram & Ors., W.P.(C) No.6680/2017*, as they were selected pursuant to the same selection process.

3. On the last date of hearing, this Court had issued notice and directed the counsel for Central Government to verify the facts averred in the present writ petition. However, no affidavit has been placed on record by the respondents.

4. This Court is of the view that the petitioners cannot be penalized for delay on the part of office of the STC, BSF in issuing appointment letters to them since it is an admitted fact that their selection process had been completed in November, 2003 and their medical examination had been conducted in December, 2003. Moreover, as some of the similarly situated Constables/GDs as the petitioners herein have already been granted the benefit of Old Pension Scheme, it would not be fair to deny the said relief to the petitioners. In fact, this Court in ***SI/Min M.R. Gurjar & Ors. Vs. Union of India & Ors., W.P.(C) 8208/2020*** has allowed similar writ petitions. The relevant portion of the said judgment is reproduced hereinbelow:

“13. Having regard to the fact that in the present batch of cases also the advertisement/notification was issued in September, 2003 and June, 2003 i.e. prior to coming into force of the present contributory pension scheme on 22nd December, 2003, this Court is of the view that petitioners cannot be deprived of the benefit of the Old Pension Scheme.

14. This is more so when the batchmates of the petitioners are getting this benefit under various judgements passed by this Court.

15. For the above reasons, the petitions are allowed. Respondents are directed to extend the benefit of Old Pension Scheme to each of these Petitioners and pass consequential orders within a period of eight weeks from today.”

5. Accordingly, the present writ petition is allowed directing the respondents to extend the benefit of Old Pension Scheme to the petitioners, subject to verification by the respondents within eight weeks.

6. With the aforesaid direction, the present writ petition stands disposed of.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

**NOVEMBER 08, 2021
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